

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Kelly Lyon	Team: Squad #11	CCRB Case #: 202008487	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Sunday, 05/31/2020 10:00 PM	Location of Incident: 6th Avenue and West 40th Street	Precinct: 14	18 Mo. SOL 11/30/2021	EO SOL 5/4/2022	
Date/Time CV Reported Sat, 07/04/2020 4:16 AM	CV Reported At: Mayor's Office	How CV Reported: On-line website	Date/Time Received at CCRB Tue, 12/29/2020 11:27 AM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Asar Rhymer	19679	959131	SRG 3
2. SGT David Lamarre	03547	947929	SRG 3
3. An officer			
4. CPT Joseph Taylor	00000	924542	SRG 3

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Cleeford Franklin	04885	953880	SRG 4
2. POM Jason Ciota	01410	951615	SRG 3
3. POM Christophe Mcgrane	16264	966702	100 PCT
4. POM Elvir Lekperic	05826	960793	SRG 3
5. POM Matthew Kokoruda	18375	944705	E S U
6. DTS Rodney Pugh	01923	927379	SRG 3
7. POM Thomas Bucholz	24774	962958	MTS PCT
8. POM Harvey Rabel	18646	937321	SRG 3
9. POM Peter Gravagna	26245	948347	SRG 4
10. POM Kerry White	18586	942697	SRG 4
11. POM Christophe Reiff	04719	951124	SRG 3
12. POF Jessica Clinton	17324	960376	SRG 3
13. POM Richard Sheridan	28443	926114	SRG 5
14. POM Dennis Ustelimov	13541	957238	SRG 3
15. POM Louis Delia	14055	955865	SRG 4
16. POM Amel Cirikovic	20416	958411	SRG 3
17. POM Ismael Remigio	03066	947391	SRG 1
18. POM David Cardona	16573	960324	SRG 4

Witness Officer(s)	Shield No	Tax No	Cmd Name
19. POM Robert Jeannetti	12017	960729	SRG 1
20. POM Tseten Namgyal	02481	964675	043 PCT
21. POM Jorge Santiago	22110	958054	SRG 2
22. POM Richard Kaplan	23199	957725	SRG 4
23. POM Adham Bright	00797	964405	MTS PCT
24. SGT Angel Vazquez	5471	951374	TB DT04
25. POM Sean Crowley	28690	964466	MTS PCT
26. POM Anthony Castrillon	01854	963441	017 PCT
27. POM Curtis Valley	21488	927622	SRG 1
28. SGT Kandou Worley	05477	945113	SRG 1
29. SGT Tawana Harvey	04587	943357	104 PCT
30. POM Christophe Emmart	13299	960496	SRG 4
31. SGT Alexander Delgado	3116	955864	013 PCT
32. LT Cory Weiner	00000	947600	SRG 1
33. POM Edward Curry	11538		MTS PCT
34. SGT Adiv Koenig	04459	935124	SRG 3
35. SSA Jose Vega	03773	916855	DIS CTL
36. POF Kellie Hughes	19506	958713	SRG 5
37. DC John Dadamo	00000	913627	SRG
38. DI Andrew Hillery	00000	925457	SRG 1
39. POM Thomas Stech	16049	940765	SRG 4
40. POM Christophe Boria	26858	953693	SRG 4
41. POF Jacqueline Vargas	05252	939634	SRG 1
42. POM Jose Cruz	21729	921245	SRG 1
43. POM Robert Luckert	31654	930606	SRG 4
44. POM Rafael Rispoli	12456	956201	SRG 2
45. INS Gerard Dowling	00000	915640	SRG
46. SGT Beatrice Shafidiya	04079	939456	SRG 3

Officer(s)	Allegation	Investigator Recommendation
A. An officer	Force: An officer struck § 87(2)(b) with a baton.	§ 87(2)(b)
B. An officer	Force: An officer used pepper spray against § 87(2)(b)	§ 87(2)(b)
C. An officer	Force: An officer used physical force against § 87(2)(b)	§ 87(2)(b)
D.POM Asar Rhymer	Force: Police Officer Asar Rhymer struck § 87(2)(b) with a baton.	§ 87(2)(b)
E.POM Asar Rhymer	Force: Police Officer Asar Rhymer used physical force against § 87(2)(b)	§ 87(2)(b)
F.SGT David Lamarre	Force: Sergeant David Lamarre used physical force against § 87(2)(b)	§ 87(2)(b)
G.SGT David Lamarre	Force: Sergeant David Lamarre struck § 87(2)(b) with a baton.	§ 87(2)(b)
H.CPT Joseph Taylor	Force: Captain Joseph Taylor used physical force against § 87(2)(b)	§ 87(2)(b)

Officer(s)	Allegation	Investigator Recommendation
I.CPT Joseph Taylor	Discourtesy: Captain Joseph Taylor spoke discourteously to § 87(2)(b)	

Case Summary

On July 4, 2020, § 87(2)(b) filed this complaint with the Mayor's Office online. It was forwarded to the Police Commissioner's Office on July 9, 2020. On December 08, 2020, it was received by IAB under PCO report IAB# 2020-001-492, which was generated from PC# 2020-§ 87(2)(b) MCU #§ 87(2)(b). On December 29, 2020, it was received at the CCRB under IAB log #2020-29069.

On May 31, 2020, at approximately 10:00 p.m., in the vicinity of Bryant Park and 6th Avenue in Manhattan, § 87(2)(b) was with his friend § 87(2)(b) at a protest which consisted of at least 200 protesters. § 87(2)(b) heard an officer say over the loudspeaker something to the effect of, "They've become violent, go." Approximately 20 to 30 officers started running toward the crowd swinging batons. § 87(2)(b) was hit on his right lower ribs and left forearm with a baton, but he did not see who hit him (**Allegation A: Force**, § 87(2)(g)).

Before officers began making arrests, another protester, § 87(2)(b) was pepper sprayed by an unidentified officer (**Allegation B: Force**, § 87(2)(g)). Officers began taking protesters into custody and another protester, § 87(2)(b) was taken to the ground by an officer (**Allegation C: Force**, § 87(2)(g)). § 87(2)(b)'s boyfriend, § 87(2)(b) became separated from her and was struck with a baton by PO Asar Rhymer of SRG 3 (**Allegation D: Force**, § 87(2)(g)). PO Rhymer and Sgt. David Lamarre of SRG 3 took § 87(2)(b) to the ground (**Allegations E and F: Force**, § 87(2)(g)) and Sgt. Lamarre allegedly struck § 87(2)(b) in the back of the head with his baton (**Allegation G: Force**, § 87(2)(g)).

Captain Joseph Taylor of SRG 3 took another protester, § 87(2)(b) to the ground and struck him in the head with his hand (**Allegation H: Force**, § 87(2)(g)). § 87(2)(b) was taken into custody and brought near the prisoner vans to wait to be transported. § 87(2)(b) was on the ground when Captain Taylor said, "Can you stand, buddy? Come on, you're already collared, it's over. Don't be a jerkoff," to § 87(2)(b) (**Allegation I: Discourtesy**, § 87(2)(g)).

More than 40 officers from various commands were present during this protest. This incident resulted in numerous arrests and summonses.

The investigation received 48 body-worn camera videos (**BR 01, BR 02, BR 03, BR 04, BR 05, BR 06, BR 07, BR 08, BR 09, BR 10, BR 11, BR 12, BR 13, BR 14, BR 15, BR 16, BR 17, BR 18, BR 19, BR 20, BR 21, BR 22, BR 23, BR 24, BR 25, BR 26, BR 27, BR 28, BR 29, BR 30, BR 31, BR 32, BR 33, BR 34, BR 35, BR 36, BR 37, BR 38, BR 39, BR 40, BR 41, BR 42, BR 43, BR 44, BR 45, BR 46, BR 47, and BR 48; videos, BR 49, BR 50, BR 51, BR 52, BR 53, BR 54, BR 55, BR 56, BR 57, BR 58, BR 59, BR 60, and BR 61; summaries**). Relevant portions are discussed below.

Findings and Recommendations

Allegation (A) Force: An officer struck § 87(2)(b) with a baton.

Allegation (B) Force: An officer used pepper spray against § 87(2)(b)

Allegation (C) Force: An officer used physical force against § 87(2)(b)

Known facts and general descriptions

§ 87(2)(b) stated (**BR 62**) that after officers started running toward the crowd, swinging batons, and tackling people to the ground who were attempting to flee, a male officer with an olive complexion late twenties to early thirties, who was 6'0" tall with an athletic build, wearing riot gear and a helmet grabbed § 87(2)(b) by the shirt collar and threw him backward to the ground, § 87(2)(b) and his other friends dragged him away from officers and they all got away. § 87(2)(b) was not injured.

§ 87(2)(b) stated (**BR 63**) that he was hit on his right lower ribs and his left forearm with a baton, and he did not see who hit him. Then, a male officer in his forties to fifties, with a smaller build, who was 5'10" tall with facial hair, and wearing a helmet, said, "Alright, let's go," looked at § 87(2)(b) and grabbed him. § 87(2)(b) was then pulled away by other people back into the

crowd. § 87(2)(b) fell onto the ground and people picked him up and tossed him back into the crowd. § 87(2)(b) provided a photo of himself (BR 64). § 87(2)(b) is a § 87(2)(b) who is § 87(2)(b) and weighs § 87(2)(b). § 87(2)(b) was § 87(2)(b) at the time of this incident. During the incident, § 87(2)(b) had short hair and was wearing a bandana, a book bag, and goggles.

PO Kerry White's body-worn camera (BR 04; video, BR 51, summary) shows § 87(2)(b) being sprayed with pepper spray at 1:26 minutes. The pepper spray comes from the left side of the screen and does not capture the officer using the pepper spray.

§ 87(2)(b) stated (BR 65) that she was separated from § 87(2)(b) when police started shouting to "get back." People started running and § 87(2)(b) dropped her phone. § 87(2)(b) bent over to pick up her phone, a young male officer who was 5'11" tall with a muscular build came from behind, grabbed her, and threw her to the ground. § 87(2)(b) felt the officer grab her with two arms as if he was hugging her. § 87(2)(b)'s hand, knees, and elbows were scraped and bruised. She did not seek medical treatment afterward.

Body-worn camera footage

Of the 48 body-worn camera videos, none of the videos captured § 87(2)(b) getting hit with a baton or being grabbed by an officer. None of the videos captured § 87(2)(b) being brought to the ground.

§ 87(2)(b) is shown being pepper sprayed in PO White's body-worn camera video (BR 04; video, BR 51; summary) at 1:26 minutes. The video shows that the pepper spray came from the left side of the screen, but it does not depict the officer who used the pepper spray, nor is it clear where that officer was in relation to PO White. None of the remaining body-worn camera videos depict the officer who used pepper spray.

NYPD Documents Reviewed

There were no AIDED reports or TRIs associated with § 87(2)(b) (BR 66 and BR 67). There were no medical treatment of prisoner forms or TRIs associated with § 87(2)(b) (BR 68 and BR 69). § 87(2)(b)'s name did not appear in the mass arrest report (BR 70), and she was not issued any summonses in the 14th Precinct (BR 71 and BR 72).

Ranking Officers and Other Officers Interviewed

Captain Taylor (BR 73) was a commanding officer of a mobile field force assigned to this protest. He believed the group of protesters were determined to be unlawful and officers were going to make arrests. Typically, the Legal Bureau makes the determination that it is a lawful assembly, but Captain Taylor could not remember specifically whether the Legal Bureau did on the day of this incident. Officers proceeded to effect some arrests. Because it was an unlawful assembly, everyone who was there was subject to arrest. Captain Taylor did not recall whether any objects were thrown at officers. Numerous arrests were made. Captain Taylor did not see any officers engage pepper spray prior to arrests occurring.

Sgt. Lamarre stated (BR 74) that officers moved in a line and told the crowd to "get back." Sgt. Lamarre held his baton at a diagonal angle in front of his chest. Several protesters refused to move so Sgt. Lamarre pushed them. Sgt. Lamarre stated this was standard procedure for dispersing a crowd. Most of the crowd did not disperse, so officers began making arrests. Sgt. Lamarre did not remember seeing any officer use pepper spray.

Conclusions

§ 87(2)(b), § 87(2)(g)
§ 87(2)(b), § 87(2)(g)
§ 87(2)(b), § 87(2)(g)
§ 87(2)(b), § 87(2)(g)
§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

Allegation (D) Force: Police Officer Asar Rhymer struck § 87(2)(b) with a baton.

Allegation (E) Force: Police Officer Asar Rhymer used physical force against § 87(2)(b)

Allegation (F) Force: Sergeant David Lamarre used physical force against § 87(2)(b)

Allegation (G) Force: Sergeant David Lamarre struck § 87(2)(b) with a baton.

It was undisputed that PO Rhymer and Sgt. Lamarre took § 87(2)(b) to the ground, took him into custody, and he was injured in the process.

§ 87(2)(b) stated (**BR 75**) he was marching with his girlfriend, § 87(2)(b) in a peaceful protest. § 87(2)(b) got separated from § 87(2)(b). She was six to ten feet away and could not see or hear § 87(2)(b). PO Rhymer told § 87(2)(b) to leave. § 87(2)(b) pointed and explained that he was just trying to get to his girlfriend. § 87(2)(b) did not remember how his arm was positioned. PO Rhymer kept telling § 87(2)(b) to leave. § 87(2)(b) tried to walk around PO Rhymer and then he got hit in the back of head with a baton. § 87(2)(b) believed another officer hit him in the head. § 87(2)(b)'s arresting officer, PO Rhymer was not the officer who hit him in the head.

§ 87(2)(b) sustained a concussion and did not remember much of what happened next. § 87(2)(b) went to 1 Police Plaza and told an officer that he needed medical attention. § 87(2)(b) was visibly bleeding. § 87(2)(b) went to § 87(2)(b) Hospital in lower Manhattan and received six stitches while in police custody. § 87(2)(b)'s medical records were originally requested in October 2021. On February 25, 2022, a follow up call was placed to the § 87(2)(b) Hospital risk management department and the medical records were still pending and will be added to the case file upon receipt.

§ 87(2)(b) stated (**BR 65**) that when she was brought to the prisoner van, § 87(2)(b) was there, and he was bloody and upset. § 87(2)(b) did not see how § 87(2)(b) became bloody because she had been separated from him.

PO Rhymer stated (**BR 76**) upon arrival, officers were instructed to form a police line to push back the aggressive crowd and help maintain order and peace. In the police line, officers were holding batons diagonally in front of their chests. The line was to prevent any of the protesters getting past the officers to try and de-arrest somebody. Upon approach the Long Range Acoustic Device was playing instructions for the protesters to disperse and leave the area or face arrest. Protesters were throwing trash into the street, damaging property, and throwing bricks and glass bottles toward officers. The projectiles landed in front of and amongst the officers.

Officers and protesters approached one another and met in the middle. Officers gave the protesters verbal commands to disperse. Officers started making arrests and the police line thinned out, so PO Rhymer filled in the gap. § 87(2)(b) approached PO Rhymer very quickly and PO Rhymer ordered him to get back more than once. § 87(2)(b) kept approaching so PO Rhymer shoved the middle area of § 87(2)(b)'s chest with his baton with both arms outstretched and ordered him to get back and disperse immediately. § 87(2)(b) fell back into the crowd, recovered, then approached a second time. PO Rhymer grabbed him and brought him behind the police line to effect the arrest.

PO Rhymer told § 87(2)(b) to place his hands behind his back and he did not comply, rather he flailed his arms and then tensed up. PO Rhymer told § 87(2)(b) to get on the ground and

he did not, so PO Rhymer forcibly took him to the ground by maintaining control of his arms. § 87(2)(b) was restrained with help from Sgt. Lamarre. Sgt. Lamarre had control of § 87(2)(b)'s other arm. PO Rhymer did not see § 87(2)(b)'s face make contact with the ground. PO Rhymer did not see Sgt. Lamarre strike § 87(2)(b) with a baton. § 87(2)(b)'s lip was bleeding from a small laceration from going to the ground and he complained of pain to his head. PO Rhymer did not see how § 87(2)(b)'s lip got injured. PO Rhymer did not see any injury to § 87(2)(b)'s head. PO Rhymer never made contact with the back of § 87(2)(b)'s head, and he did not see Sgt. Lamarre make contact with his head. PO Rhymer was not aware as to whether § 87(2)(b) lost consciousness.

Once § 87(2)(b) was on the ground facing the ground, PO Rhymer did not have difficulty getting § 87(2)(b) into handcuffs. PO Rhymer was pretty sure he handcuffed § 87(2)(b) but was not certain. Other arrests were taking place, but PO Rhymer was not paying attention to them. § 87(2)(b) was unable to receive medical treatment at this location because it was not a stable situation for officers to request EMS on top of hundreds of officers engaging with the protesters in addition to all the other police vehicles that were in the area. § 87(2)(b) was slurring his words, sounded intoxicated, and his breath smelled like alcohol.

PO Rhymer took § 87(2)(b) into custody and began the usual procedure for arrest custody by bringing him to the designated arrest location. § 87(2)(b) was transported to the Mass Arrest Processing Center by 1 Police Plaza in Manhattan. PO Rhymer asked § 87(2)(b) numerous times if he wanted to go to the hospital and he said no. Later in the night, § 87(2)(b) stated he did want to go to the hospital, and he was brought to the hospital.

Sgt. Lamarre stated (**BR 74**) that § 87(2)(b) lunged at PO Rhymer. § 87(2)(b) lunging at PO Rhymer was a safety concern. Sgt. Lamarre and PO Rhymer took § 87(2)(b) to the ground and placed him under arrest. Sgt. Lamarre grabbed § 87(2)(b) by the back but did not remember whether he grabbed § 87(2)(b) from the front or behind. Sgt. Lamarre did not see what PO Rhymer did. § 87(2)(b) flailed his arms and did not place his hands behind his back. Sgt. Lamarre and PO Rhymer got § 87(2)(b) into handcuffs during the struggle on the ground. Sgt. Lamarre stated that he probably made contact with § 87(2)(b) with his baton because it was in his hand already. Sgt. Lamarre believed he made contact with § 87(2)(b)'s back. Sgt. Lamarre stated that he could have struck § 87(2)(b) with the baton but he did not remember. Sgt. Lamarre was asked whether he struck § 87(2)(b) in the back of the head to which he responded if it did happen, it was incidental as it took place while they were struggling to place § 87(2)(b) under arrest. Sgt. Lamarre never raised his baton above his shoulder.

Sgt. Lamarre did not see PO Rhymer use his baton because he was not paying attention to what PO Rhymer was doing as he was focused on getting § 87(2)(b) into custody. Sgt. Lamarre issued § 87(2)(b) verbal commands to put his hands behind his back and stop resisting. Sgt. Lamarre did not remember making any discourteous remarks when issuing these commands. Sgt. Lamarre never saw § 87(2)(b)'s face make contact with the ground.

Afterward, Sgt. Lamarre observed that § 87(2)(b) was injured but he did not remember the exact injury. He remembered § 87(2)(b) saying his head was hurting and he was bleeding in the back of his head. § 87(2)(b) had to go to the hospital to get treated but Sgt. Lamarre did not remember the specific injury.

During Sgt. Lamarre's CCRB interview, Sgt. Lamarre was shown his body-worn camera footage (**BR 37**; video, **BR 59**; summary) from 2:55 minutes to 3:41 minutes. Sgt. Lamarre explained that at 3:28 minutes he was holding § 87(2)(b) down to hold him place while he and PO Rhymer were trying to handcuff § 87(2)(b).

Also, during Sgt. Lamarre's CCRB interview, PO Rhymer's body-worn camera footage (**BR 07**; video, **BR 49**; summary) was played from 00:49 seconds to 1:38 seconds. Sgt. Lamarre explained he raised right arm and brought back down toward § 87(2)(b) to try to take him into custody because § 87(2)(b) was not giving his hand. Sgt. Lamarre did not see PO Rhymer strike § 87(2)(b) with a baton and had no independent recollection of himself striking § 87(2)(b) in the

head with a baton.

According to the TRI (**BR 77**), PO Rhymer stated that § 87(2)(b) moved in front of the protesters to confront officers in the police line. PO Rhymer used his baton to prevent § 87(2)(b) from attacking him and used his baton to push § 87(2)(b) to the ground. § 87(2)(b) hit his face on the pavement causing injury. On the ground, § 87(2)(b) resisted arrest. § 87(2)(b) was also highly intoxicated.

A medical treatment of prisoner report was prepared indicating that § 87(2)(b) initially refused medical treatment at the command and was transported to the hospital at 4:50 a.m. for a head injury (**BR 96**).

PO Rhymer's body-worn camera shows (**BR 07; video, BR 49; summary**) at 00:50 seconds, § 87(2)(b) walking toward PO Rhymer and PO Rhymer pushes him backward into the crowd of protesters. § 87(2)(b) gets back up and quickly approaches PO Rhymer a second time. PO Rhymer takes § 87(2)(b) to the ground and § 87(2)(b) is shown with his face on the ground at 1:03 minutes. Sgt. Lamarre appears to strike § 87(2)(b) on the back of his body but the video does not depict which body part. At 1:32 minutes, § 87(2)(b) is handcuffed. At 1:44 minutes, § 87(2)(b) begins to stand up and his mouth is bleeding.

Sgt. Lamarre's body-worn camera shows (**BR 37; video, BR 59; summary**) at 2:57 minutes, § 87(2)(b) on the lefthand side of the screen. § 87(2)(b) quickly approaches PO Rhymer, who is to the left of Sgt. Lamarre but out of the frame. Sgt. Lamarre immediately assists PO Rhymer in taking § 87(2)(b) to the ground. Sgt. Lamarre is holding his baton in his right hand. Sgt. Lamarre and PO Rhymer appear to struggle to get § 87(2)(b) on the ground into handcuffs. At 3:40 minutes, § 87(2)(b) is in handcuffs.

NYPD Patrol Guide procedure 221-01 (**BR 78**) states that force may be used when it is reasonable to place a person in custody or to prevent escape from custody. Any application of force must be reasonable under the circumstance and the following should be considered in determining whether it is reasonable: The nature and severity of the crime/circumstance, actions taken by the subject, duration of the action, immediacy of perceived threat or harm to the subject, MOS, or bystanders, whether the subject is actively resisting custody, whether the subject is attempting to evade arrest by flight, number of subjects in comparison to number of MOS, size, age, and condition of subject compared to that of the MOS, subject's violent history, presence of hostile crowd or agitators, and whether the subject is apparently under the influence of stimulants/narcotics.

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

Allegation (H) Force: Captain Joseph Taylor used physical force against § 87(2)(b)

Allegation (I) Discourtesy: Captain Joseph Taylor spoke discourteously to § 87(2)(b)

It was undisputed that Captain Taylor struck § 87(2)(b) with his hand and used discourteous language when giving him orders.

§ 87(2)(b) did not wish to provide a statement to the CCRB (**BR 79**).

Captain Taylor stated (**BR 73**) that he encountered § 87(2)(b) and tried to take him into custody. An officer assisted Captain Taylor, but he did not recall their name. Captain Taylor did not recall whether he initiated the arrest. § 87(2)(b) fell to the ground and refused to give his hands. Captain Taylor did not remember whether § 87(2)(b) was taken to the ground. Captain Taylor was pulling on § 87(2)(b)'s arms and asked him to show his hands numerous times. Once Captain Taylor got his arms, § 87(2)(b) refused to open his hands. Captain Taylor tried to physically open § 87(2)(b)'s hands with his own hands to make sure there was not anything in § 87(2)(b)'s hands that could hurt him. At least one of § 87(2)(b)'s hands was in a fist. Captain Taylor said, "Open up your hand," several times. Captain Taylor stated that he maybe said, "Open up your fucking hand." Captain Taylor did not hear any other officer say, "Open your fucking hands." The area was very chaotic and other arrests were occurring in the general vicinity.

Captain Taylor struck § 87(2)(b) in the side of his head with his right hand to gain compliance. Captain Taylor did not remember whether he used an open or closed fist. § 87(2)(b) was taken into custody. § 87(2)(b) did not complain of any injuries. Captain Taylor was not aware of § 87(2)(b) needing any medical treatment.

After § 87(2)(b) was placed into handcuffs, he needed to be carried to the prisoner transport vehicle because he was passively resisting. Captain Taylor carried § 87(2)(b) part of the way with at least one other officer. Captain Taylor carried § 87(2)(b)'s legs until another officer took over for him. Captain Taylor did not remember saying, "Start fucking walking."

When § 87(2)(b) was waiting to go into the transport vehicle, Captain Taylor was trying to clear the street a little bit by asking everyone to move over. Captain Taylor said, "Move, it's over, let's go," to § 87(2)(b) who was laying on the ground. Captain Taylor said, "Don't be a jerkoff," to § 87(2)(b). Captain Taylor explained that he used that phrase because it was the heat of the moment, and it was very chaotic. Captain Taylor wanted § 87(2)(b) to stop being difficult and move along. Prisoners were secured in transport vehicles and arrests were processed.

During Captain Taylor's CCRB interview, his body-worn camera footage (**BR 40; video, BR 59; summary**) was played from 3:05 minutes to 4:11 minutes. Captain Taylor did not recognize the voice who said, "fucking ground," to § 87(2)(b) at 3:08 minutes and he did not remember saying it himself. Captain Taylor did not know who said, "Fucking hands," from 3:17 minutes to 3:24 minutes. Captain Taylor did not remember if he was the one who said, "fucking hand," from 3:47 minutes to 3:52 minutes. Captain Taylor explained that he was the one who said, "Open up your fucking hand," from 4:03 minutes to 4:09 minutes because he was trying to gain compliance, trying to get § 87(2)(b) into custody, was afraid that § 87(2)(b) had something in his hand that could hurt him, and because § 87(2)(b) was asked numerous times. Captain Taylor was not trying to cause alarm, be discourteous, demean § 87(2)(b) or offend him. Captain Taylor never heard PO Ustelimov, the officer who was assisting him, use profanity toward § 87(2)(b).

The video was played from 5:26 minutes to 5:38 minutes, during which, § 87(2)(b) says something about his "fucking mask." Captain Taylor stated he could have been the one who said, "Start fucking walking," because it was a chaotic situation, and he was trying to get § 87(2)(b) to comply.

Captain Taylor's body-worn camera footage (**BR 40; video, BR 59; summary**) shows at 11:55 minutes, Captain Taylor asking arresting officers to move the line over toward the prisoner vans. § 87(2)(b) is sitting on the ground. Captain Taylor says, "Can you stand, buddy? Come on, you're already collared, it's over. Don't be a jerkoff."

NYPD Patrol Guide procedure 221-01 (**BR 77**) states that force may be used when it is reasonable to place a person in custody or to prevent escape from custody. Any application of force must be reasonable under the circumstance and the following should be considered in determining whether it is reasonable: The nature and severity of the crime/circumstance, actions taken by the subject, duration of the action, immediacy of perceived threat or harm to the subject, MOS, or bystanders, whether the subject is actively resisting custody, whether the subject is attempting to evade arrest by flight, number of subjects in comparison to number of MOS, size, age, and

condition of subject compared to that of the MOS, subject's violent history, presence of hostile crowd or agitators, and whether the subject is apparently under the influence of stimulants/narcotics.

NYPD Patrol Guide procedure 200-02 (**BR 80**) states that officers are to respect the dignity of each individual and render services with courtesy and civility.

NYPD Disciplinary Case #79627/04 (**BR 81**), states discourteous language may be justified when attempting to gain compliance with an order while attempting to maintain order during a stressful street encounter.

In DAO-DCT Case Number 2015-15012 (**BR 82**), the court held that an officer is not permitted to use profanity when the profanity serves no legitimate purpose but to belittle the civilian.

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

Civilian and Officer CCRB Histories

- § 87(2)(b)
- § 87(2)(b)
- This is the first CCRB complaint to which § 87(2)(b) and § 87(2)(b) have been a party (**BR 85, BR 86, BR 87, and BR 88**).
- PO Rhymer has been a member of service for six years and this is the first CCRB complaint to which he has been named a subject.
- Sgt. Lamarre has been a member of service for 13 years and named a subject in 10 additional CCRB complaints and 17 allegations, two of which were substantiated.
 - 201604671 involved a substantiated allegation of a vehicle search. The Board recommended Command Discipline A and the NYPD imposed no penalty.
 - 202004315 involved a substantiated allegation of a discourteous word. The Board recommended Command Discipline A and the NYPD has yet to impose discipline.
- Captain Taylor has been a member of service for 22 years and named a subject in four additional CCRB complaints and 12 allegations, three of which were substantiated.
 - 202107634 involved substantiated allegations of a discourteous action, a discourteous word, and a false official statement. The Board recommended charges and the NYPD has yet to impose discipline.

Mediation, Civil, and Criminal Histories

- This complaint was not suitable for mediation.
- On February 25, 2022, a FOIL request was submitted to the New York City Office of the Comptroller to inform of any Notice of Claim filed in regard to this incident, the results of which will be added to the case file upon receipt (**BR 89**).
- According to the Office of Court Administration (OCA), § 87(2)(b) and § 87(2)(b) have no record of criminal convictions in New York City (**BR 90, BR 91, BR 92, BR 93, and BR 94**).
- § 87(2)(b)

Squad: 11

Investigator: Kelly Lyon Inv. Kelly Lyon 02/28/2022
Signature Print Title & Name Date

Squad Leader: Edwin Pena IM Edwin Pena 02/28/22
Signature Print Title & Name Date

Reviewer: _____
Signature Print Title & Name Date